

## **REMARKS**

### **Status of the claims**

Claims 8-10 and 12-77 remain in the application.

Claims 1-7, 11, 22, and 64 are cancelled without prejudice.

Claims 8, 13, 18, 21, 23, 24, 27-31, 50, 51, 63, 68-71, and 73 are amended.

## **THE OFFICE ACTION**

### **The Double Patenting Rejections**

Claims 8-10 and 12-21 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9, 10 and 12-20 of copending application Serial No. 10/213,861 (now US Pat. No. 6,948,211).

Claim 8 stands rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 13 of US Pat. No. 6,341,404).

Claims 8, 21, 63, and 77 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7, 14, 16, 23, and 24 of US Pat. No. 6,436,160).

A terminal disclaimer accompanies this amendment. Accordingly, it is respectfully requested that the double patenting rejections be withdrawn.

### **§102 and §103 Rejections**

Claims 50, 59, and 60 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,806,242 to Sparklin.

Claims 8-10 and 12-17, and 19-77 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,436,160 to Stephens, et al.

Claims 21, 28, 50, 62, 63, 67, 76, and 77 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,863,702 to Sepke, et al.

Claims 21, 28, 33, and 34 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,269,518 to Yung.

Claims 8, 9, 10, 12, 14-16, 19, and 20 stand rejected under 35 U.S.C. §103 as being unpatentable over Yung in view of U.S. Patent No. 6,003,196 to Wright, et al.

Claim 27 stands rejected under 35 U.S.C. §103 as being unpatentable over Yung in view of U.S. Patent No. 5,307,538 to Rench, et al.

Claims 61 and 75 stands rejected under 35 U.S.C. §103 as being unpatentable over Sepke in view of Rench, et al.

Claim 18 was considered to be allowable if rewritten in independent form.

For the reasons outlined below, it is submitted that the claims are now in condition for allowance.

Applicants submit herewith a declaration of the inventors under 37 C.F.R. 1.131 which provides evidence of the invention of claims 8-10 and 12-17, and 19-77, in the US, prior to the priority date of U.S. Patent No. 6,436,160. It is respectfully requested that the §102(e) rejections be withdrawn.

Claim 8 has been amended to recite a vacuum cleaner which includes a cyclonic airflow chamber including an axial chamber outlet, a suction duct a connecting the axial chamber outlet with a suction source housing. The suction duct extends along an axis of the cyclonic airflow chamber. A suction source includes a suction inlet communicating with the suction duct.

The references of record do not disclose or fairly suggest such a vacuum cleaner. Yung discloses a bagless vacuum cleaner with a collection unit 16. Air exits the collection unit via ductwork 92 which extends upwardly in a direction away from the air blower motor 28, then skirts around an the side of the collection chamber (FIGS .1 and 2). The exposed ductwork of Yung can create significant amounts of noise due to the air movement therethrough. In contrast, in the presently claimed system, a suction duct which extends along an axis of the cyclonic airflow chamber can be surrounded by structural components of the vacuum cleaner which mitigate the noise level.

Wright does not solve the deficiencies of the primary reference. In Wright, the suction duct 46 is situated at a rear of the vacuum cleaner.

The Rule 1.131 Declaration and Terminal Disclaimer filed herewith having attended to all other rejections of claim 8, it is submitted that claim 8, and claims 9-10, 12, 14-17, and 19-20 dependent therefrom, are now in condition for allowance.

Claim 13 has been placed in independent form. Claim 13 was rejected over Stephens. In view of the Rule 1.131 declaration it is submitted that Stephens is not properly a reference against claim 13 and should be removed. The filing of a terminal disclaimer attends to all further rejections of claim 13.

Accordingly, it is submitted that claim 13 is now in condition for allowance.

Claim 18, against which no prior art rejections were made, has been placed in independent form. Accordingly, it is submitted that claim 18 is now in condition for allowance.

Claim 21 has been amended to incorporate the subject matter of claim 22, which is now cancelled. Claims 21 and 22 were rejected over Stephens. In view of the Rule 1.131 declaration, it is submitted that Stephens is not properly a reference against claim 21 and should be removed. The filing of a Terminal Disclaimer attends to all further rejections of claim 21.

Accordingly, it is submitted that claim 21 and claims 23-34 dependent therefrom, are now in condition for allowance.

Claim 35 was rejected over Stephens. In view of the Rule 1.131 Declaration, it is submitted that Stephens is not properly a reference against claim 35 and should be removed. The filing of a Terminal Disclaimer attends to all further rejections of claim 35.

Accordingly, it is submitted that claim 35, and claims 36-49 dependent therefrom, are now in condition for allowance.

Claim 50 has been amended to recite a vacuum cleaner which includes a base unit and a housing, pivotally mounted on the base unit. A suction source is mounted to the housing.

Sparklin does not disclose or fairly suggest a vacuum cleaner with a suction source which is mounted to a pivotally mounted housing. Rather, in Sparklin, the motor 22 and fan 27 are mounted within the base housing 10, not on the pivotable handle 12 of the vacuum cleaner. It would not be obvious to mount Sparklin's fan on the handle since the fan blades are driven by the shaft 21 which also rotate the belt 20 which drive the brush 18.

Similarly, in the device of Sepke, et al., where the suction source is not

illustrated, it is indicated that the motor serves to drive the rotating brush and a suction fan or impeller. There is no suggestion that a motor which drives a rotating brush could be mounted to the pivotal body portion 102 of Sepke's vacuum cleaner.

Claim 50 was also rejected over Stephens. In view of the Rule 1.131 Declaration, it is submitted that Stephens is not properly a reference against claim 50 and should be removed. The filing of a Terminal Disclaimer attends to all further rejections of claim 50.

Accordingly, it is submitted that claim 50, and claims 59-62 dependent therefrom, are now in condition for allowance.

Claim 51 has been placed in independent form. Claim 51 was rejected over Stephens. In view of the Rule 1.131 Declaration, it is submitted that Stephens is not properly a reference against claim 51 and should be removed. The filing of a Terminal Disclaimer attends to all further rejections of claim 51.

Accordingly, it is submitted that claim 51, and claims 52-58 dependent therefrom, are now in condition for allowance.

Claim 63 has been amended to incorporate subject matter of claim 64, which is now cancelled. Claim 64 was rejected over Stephens. In view of the Rule 1.131 Declaration, it is submitted that Stephens is not properly a reference against claim 63 and should be removed. The filing of a Terminal Disclaimer attends to all further rejections of claim 63.

Accordingly, it is submitted that claim 63, and claims 65-72 and 75-77 dependent therefrom, are now in condition for allowance.

Claim 73 has been placed in independent form. Claim 73 was rejected over Stephens. In view of the Rule 1.131 Declaration, it is submitted that Stephens is not properly a reference against claim 73 and should be removed. The filing of a Terminal Disclaimer attends to all further rejections of claim 63.

Accordingly, it is submitted that claim 73, and claim 74 dependent therefrom, are now in condition for allowance.


### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application. Claims 8-10, 12-21, 23-63, and 65-77 are now in condition for allowance.

Respectfully submitted,

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